

REMARKS

Initially, in the Office Action the Examiner has rejected claims 1 – 3, 5, 7 – 13, 15 – 24, 32 – 38, 40 – 42, 48 – 52 and 54 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0076408 (Dutta) in view of U.S. Patent Application Publication No. 2002/0102966 (Lev et. al.).

Claims 1 – 3, 5, 7 – 13, 15-24, 32 – 38, 40-42, 48 – 52 and 54 remain pending in the present application.

35 U.S.C. §103 Rejections

Claims 1 – 3, 5, 7 – 13, 15 - 24, 32 – 38, 40 – 42, 48 – 52 and 54 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Dutta in view of Lev et al. Applicant has discussed the deficiencies of Dutta in Applicant's previously filed responses and reasserts all arguments submitted in those responses. Applicant respectfully traverses these rejections and provides the following additional remarks.

Lev et al. discloses an object identification method for wireless portable devices for a user equipped with a portable wireless imaging device to be able to obtain information and services related to imaged objects, where the object identification is performed at least partially by a remote computational facility, and where the object identification is based on acquired images of the object. The method includes an imaging device, capable of taking one-dimensional or two dimensional images of objects; a device capable of sending the coded image through a wireless channel to remote facilities; algorithms and software for processing and analyzing the images and for extracting from them symbolic information such as digits, letters, text, symbols or icons; algorithms and software facilitating the identification of the imaged objects based on the information gathered from the image and the information available in databases; and algorithms and software for offering various information or services to the user of the imaging device based on the information gathered from the image and the information available in databases.

Regarding claims 1, 17, 32 and 48, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of these claims of, *inter alia*, wherein the

predetermined function comprises at least one of transmitting a signal to order a product or service, decoding data from one or more images to reprogram a communication device or downloading communication device setup parameters. The Examiner admits that Dutta does not disclose or suggest these limitations but asserts that Lev et al. discloses these limitations in Fig.2 and paragraphs 0069-0072. However, these portions merely disclose a server 205 retrieving info regarding a product (e.g., price, availability, qualities, rating, limitations on sale, etc.), reformatting the info for display on a target device 206, and presenting menus and activities on a display of the target device for inquiring or purchasing the product, and that the same info can be sent to other display devices. This is not the predetermined function comprises at least one of transmitting a signal to order a product or service, decoding data from one or more images to reprogram a communication device or downloading communication device setup parameters, as recited in the claims of the present application. Lev et al. merely discloses a server retrieving info regarding a product and presenting info on a display of a target device for inquiring or purchasing the product. This is not transmitting a signal to order a product or service, as recited in the claims of the present application.

Specifically, this is not identifying a class of data in the image of the plurality of classes of data and automatically performing a predetermined function associated with the class of data, where the predetermined function comprises transmitting a signal to order a product or service. The retrieving of info by a server regarding a product and presenting info on a display of a target device for inquiring or purchasing the product does not disclose or suggest these limitations in the claims of the present application. None of the cited references disclose or suggest automatically performing a predetermined function that comprises transmitting a signal to order a product or service. To order a product in Lev et al., a user must select one of the menu items presented by the server on the display of the target device. Further, none of the other cited references disclose or suggest a predetermined function comprising decoding data from one or more images to reprogram a communication device or downloading communication device setup parameters. These limitations are neither disclosed nor suggested by any of the cited references, taken alone or in combination. The claims of the present application are clearly patentable over the cited references.

Regarding claims 2, 3, 5, 7-13, 16, 18-24, 33-38, 40-42, 49-52 and 54, Applicant submits that these claims are dependent on one of independent claims 1, 17, 32 and 48 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicant submits that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 1 – 3, 5, 7 – 13, 15-24, 32 – 38, 40-42, 48 – 52 and 54 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

Conclusion

In view of the foregoing remarks, Applicant submits that claims 1 – 3, 5, 7 – 13, 15-24, 32 – 38, 40-42, 48 – 52 and 54 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested.

If the Examiner has any questions about the present Amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 13-4365.

Respectfully submitted,

Ivan N. Wakefield
(Applicant)



Date: May 19, 2009

Frederick D. Bailey
Registration No. 42,282
Moore & Van Allen, PLLC
P.O. Box 13706
Research Triangle Park, N.C. 27709
Telephone: (919) 286-8000
Facsimile: (919) 286-8199